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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 826,012	04/05/2001	Kenichi Chujo	0303-0444P	3847

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EXAMINER

CHANG, VICTOR S

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 05/16/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Application No.

Applicant(s)

09/826,012

CHUJO ET AL.

**Office Action Summary**

Examiner

Art Unit

Victor S Chang

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
 Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED. (35 U.S.C. § 133)
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 2 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 January 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 08 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All b) ☐ Some \* c) ☐ None of:  
 1. ☐ Certified copies of the priority documents have been received.  
 2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
 \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s): \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 6) ☐ Other:

### **DETAILED ACTION**

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Rejections not maintained are withdrawn.

### ***Drawings***

3. The proposed and corrected drawings filed on 1/8/2003 have been approved.

### ***Response to Amendment***

4. Claims 1-2 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 0331447, substantially for the reasons set forth in section 4 of Paper No. 7, together with the following additional observations.

With respect to Applicants' Response arguing that "forming by vacuum evacuation is not used in EP '447" (Response, page 6, second complete paragraph), the Examiner repeats (see Page 3 of Paper No. 7) that the product-by-process recitation in claims 1-2 is either inherent in an article formed by a compression molding process, or an obvious modification to one of ordinary skill in the art, which further has not as yet been shown on the record to produce a patentably distinct article. Alternatively, EP '447 also teaches that in the prior art removing the air from the mold cavity by vacuum is a conventional process step during compression molding (pg. 2,

Ins. 20-25). As such, if the reference is not anticipating, it would still have been obvious to one of ordinary skill to form the article by including an evacuation step in a compression molding process, motivated by the desire to fill the mold properly.

With respect to Applicants' argument that "EP '447 does not disclose the object of avoiding a shrinkage cavity..." (Response, page 6, bottom paragraph), the Examiner reiterates (see Page 3 of Paper No. 7) that the results summarized in Table 1 shows that, under suitable molding pressure, the composite is still of practical use (pg. 8, Ins. 7-36), i.e., clearly the composite has not suffered "shrinkage cavity" and remains to be useful, and again the product-by-process recitation in claims 1-2 has not as yet been shown on the record to produce a patentably distinct article.

5. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0331447 in view of admitted prior art, substantially for the reasons set forth in section 5 of Paper No. 7, together with the following additional observations.

With respect to Applicants' argument that "Nor does Applicants' background art cure the deficiencies of EP '447 as a primary reference" (Response, page 7, third paragraph), the Examiner reiterates (see page 4 of Paper No. 7) that Applicants appear to admit that the prior art teaches that when a foamed resin component is joined to a surface material with smaller cell size in the joint area, the molding irregularity is removed (Specification, pg. 5, lines 11-21), as such it would have been obvious to one of ordinary skill in the art to modify EP '447 to place the surface layer against the side of foam with smaller expansion ratio (i.e., small cell size) as taught by admitted prior art, motivated by the desire to reduce irregularity in the molded laminate.

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6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

DANIEL ZIRKER  
PRIMARY EXAMINER  
GROUP 4300

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